Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 06/27/10	Bureau/Station/Facility: Custody Operations Division/Men's Central Jail	Admin. Invest.? ☐	Hit? ☐

Incident Information

URN: Orange County case #10-116495	Date: 06/27/10 Time: 0320
City or Station: Mission Viejo	Nature of Incident: While sleeping at home, Deputy Miller heard the diesel engine of his truck start. When he exited the balcony of his second story bedroom, he saw three suspects inside the truck which was parked in his driveway. Deputy Miller ran outside with his weapon (Smith & Wesson, 38 caliber, 5-shot) and confronted the vehicle halfway in the driveway. Deputy Miller identified himself as a deputy, told them to stop and to get out of the truck. The truck began to accelerate in reverse with its back end swinging southbound up the hill and the front end swinging toward Deputy Miller. Fearing he was going to be struck by the truck, Deputy Miller fired one round striking the driver's door. The suspects fled on foot from the location.
Location: [redacted]	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **Residence** (circled), Rural, School, **Street** (circled), Other: ______

Lighting (*circle only one*): Darkness, Daylight, Other, **Street Lights** (circled)

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 3-5 ft

Incident Type (*circle one or more*): Accidental, Armed Person, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: Off-duty

Initiated by (*circle only one*): Arrest Warrant, Call, **Observation** (circled), One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, **Other** (circled), Routine Patrol

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
1	0	☐	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*):	ShiftType (*circle only one*):
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name	First Name	M.I.			
[redacted]	[redacted]	[redacted]			
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	
[redacted]	[redacted]	[redacted]		[redacted]	
Last Name	**First Name**	**M.I.**			
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	
Last Name	**First Name**	**M.I.**			
Street Address	**City**	**Zip Code**	**Work Ph**	**Home Ph**	

Supervisors

Employee #	Last Name	First Name	M.I	(*circle one or more*):
				On Duty, Present during shooting, Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.

PSTD Use Only

SH # ______________

Officer Involved Shooting

URN: Orange County case #10-116495

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
06/27/10	0815		

Employee #	Last Name	First Name	M.I
[redacted]	Roberts	Maria	T.
[redacted]	Quichocho	Frank	F.
[redacted]	Grimaldi	Michael	J.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	OV						
E#1	S#1	FH	SW	38	Y	Y	NN	

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: Orange County case #10-116495

Involved Employee

E 1

Employee # [redacted]	Last Name: Miller	First Name: Michael	M.I.: J.
Sex: M Race: White	Rank: Deputy Sheriff	Unit Assignment: Men's Central Jail	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM **PM** Day	ShiftType (*circle only one*): Regular Overtime **Off Duty**	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 3-4 hours	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors: The employee was only wearing boxers shorts when he confronted the suspects.
Age: 31 Height: 5'10"	Weight: 185 lbs		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted] Directed Force: [redacted]
Weapons Fired Brand: S&W	Caliber: 38	# Shots: 1	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber:	# Shots:	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E__

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber:	# Shots:	Weapons Fired Brand: Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting Suspect Information

URN: Orange County case #10-116495

Suspect Information

S 1

Last Name: Cochran	First Name: Aaron	M.I.: C.	
AKA Last Name:	First Name:	M.I.:	
Sex: M Race: White	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 20 D.O.B. 11/07/90	Height: 510 Weight: 160	FBI #: [redacted]	CII #: [redacted]
Booking # 2581663	Primary Charge: 10851(A)V.C.	Secondary Charge: 496(A)P.C.	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☒	Substance Used: Alcohol
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make:	Model:	Year:	

S 2

Last Name: Earnest	First Name: Cory	M.I.: J.	
AKA Last Name:	First Name:	M.I.:	
Sex: M Race: White	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted] [redacted]
Work Phone:	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted] [redacted]
Age: 21 D.O.B. 06/04/1989	Height: 600 Weight: 155	FBI #: [redacted]	CII #: [redacted]
Booking # 2581855	Primary Charge: 10851(A)V.C.	Secondary Charge: 496(A)P.C.	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☒	Substance Used: Alcohol
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make:	Model:	Year:	

S 3

Last Name: Earnest	First Name: Shawn	M.I.: M.	
AKA Last Name:	First Name:	M.I.:	
Sex: M Race: White	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted] [redacted]
Work Phone:	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 25 D.O.B. 11/25/85	Height: 603 Weight: 160	FBI #: [redacted]	CII #: [redacted]
Booking # 2582447	Primary Charge: 10851(A)V.C.	Secondary Charge: 496(A)P.C.	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☒	Substance Used:
Armed? ☐	Apprehended? ☒	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make:	Model:	Year:	

S __

Last Name:	First Name:	M.I.:	
AKA Last Name:	First Name:	M.I.:	
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #:	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make:	Model:	Year:	

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

DEPUTY INVOLVED SHOOTING: NON-HIT

UNIT: Men's Central Jail
DATE: June 27, 2010, Sunday
TIME: 0320 hours
LOCATION: [redacted] Mission Viejo 92691
CASE#: 10-116495 (Orange County Sheriff's Department)
IAB#: SH2269365

NATURE OF INCIDENT:

On Sunday, June 27, 2010, Lieutenant Mike Grimaldi and Sergeants Teri Roberts and Frank Quichocho of the Internal Affairs Bureau responded to [redacted] in Mission Viejo to investigate an off-duty non-hit deputy involved shooting. Office of Independent Review Attorney Angelica Arias also responded. Investigator [redacted] #[redacted] (Orange County Sheriff's Department - Mission Viejo) briefed the responding investigators.

The shooting involved Men's Central Jail Deputy Michael Miller (Employee #[redacted]) and Suspects Aaron Cochran (MA/11-07-90), Cory Earnest (MA/06-04-89) and Shawn Earnest (MA/11-25-85).

At approximately 0330 hours, Deputy Miller was sleeping in his second-story bedroom when he heard the sound of the diesel engine of his truck. Deputy Miller stepped out onto the balcony area, which overlooks the front of the house. The truck was parked in his driveway. Deputy Miller saw two individuals inside his truck and a male walking southbound on the sidewalk away from the truck.

Deputy Miller armed himself with his authorized off-duty weapon (S&W .38 caliber 2" revolver) and exited the front door of his home. As the truck began to back up slowly out of the driveway, Deputy Miller ran up to the driver's door, identified himself as a police officer and ordered them out of the truck. Deputy Miller began pounding on the driver's window while walking backwards alongside the driver's door.

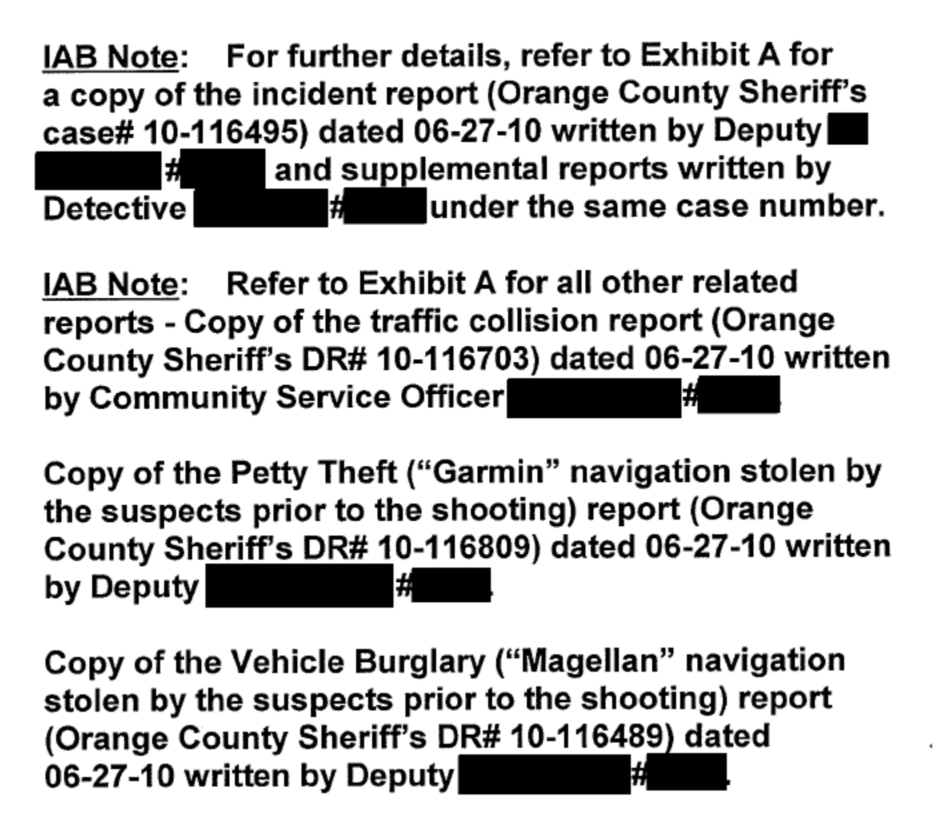
Deputy Miller heard the engine accelerate and saw the truck suddenly turning. The front

end of the truck swung toward Deputy Miller and pushed him. He believed the truck was going to run him over. Deputy Miller removed his revolver from the holster and aimed the weapon at the driver. Fearing for his safety, Deputy Miller fired one round from the hip with his right hand, striking the driver's door (bullet lodged inside driver's door) of the truck.

The driver accelerated backward rapidly and crashed into a vehicle parked across the street. Deputy Miller stepped back to gain distance from the truck. He then pointed the weapon in the driver's direction and ordered the individuals out of the truck. The suspects exited the truck and fled on foot in separate directions. Deputy Miller returned to his house and called 911.

> **<u>IAB Note</u>: Refer to Exhibit F for the 911 call made to Orange County Sheriff's Department.**

Investigators from Orange County Sheriff's Department arrested the three suspects several days after the incident. Deputy Miller nor the suspects were injured as a result of this incident.



> **<u>IAB Note</u>: For further details, refer to Exhibit A for a copy of the incident report (Orange County Sheriff's case# 10-116495) dated 06-27-10 written by Deputy [redacted] #[redacted] and supplemental reports written by Detective [redacted] #[redacted] under the same case number.**

> **<u>IAB Note</u>: Refer to Exhibit A for all other related reports - Copy of the traffic collision report (Orange County Sheriff's DR# 10-116703) dated 06-27-10 written by Community Service Officer [redacted] #[redacted].**

> **Copy of the Petty Theft ("Garmin" navigation stolen by the suspects prior to the shooting) report (Orange County Sheriff's DR# 10-116809) dated 06-27-10 written by Deputy [redacted] #[redacted].**

> **Copy of the Vehicle Burglary ("Magellan" navigation stolen by the suspects prior to the shooting) report (Orange County Sheriff's DR# 10-116489) dated 06-27-10 written by Deputy [redacted] #[redacted].**

The following review is based on written documentation, witness and the involved deputy's interviews.

INVOLVED PERSONNEL:

MILLER, Michael J. - Deputy Sheriff, Employee #[redacted]
Custody Operations Division
Men's Central Jail

EMPLOYEE WORK HISTORY:

Date of Employment: 11-13-06
Date Assigned to Custody: [redacted]
Completed Custody Training:
Prior Shooting Incident(s):
Prior Founded Force Incidents:

INVOLVED SUSPECTS:

COCHRAN, Aaron Christopher, MW/20, Booking #2581663, DOB: 11-07-90
[redacted]
Booking Charges: 10851(A)V.C., 496(A)P.C.
CII: [redacted] CDL: [redacted] FBI: [redacted]

Involved Suspect Criminal History:

[redacted] Refer to the RAPS printout included under **Exhibit A**.

EARNEST, Cory John, MW/21, Booking #2581855, DOB: 06-04-89
[redacted]
Booking Charges: 10851(A)V.C., 496(A)P.C.
CII: [redacted] CDL: [redacted] FBI: [redacted]

Involved Suspect Criminal History:

[redacted] Refer to the RAPS printout included under **Exhibit A**.

EARNEST, Shawn Michael, MW/25, Booking #2582447, DOB: 11-25-85
[redacted]
Booking Charges: 10851(A)V.C., 496(A)P.C.
Main: [redacted] CII: [redacted] CDL: [redacted] FBI: [redacted]

Involved Suspect Criminal History:

[redacted] Refer to the CCHRS and RAPS printouts included under **Exhibit A**.

DEPARTMENT EMPLOYEE WITNESSES:

None.

NON-DEPARTMENT WITNESSES:

[redacted], FW/26, DOB: [redacted]

INJURIES:

None.

PHYSICAL EVIDENCE:

Silver Garmin Nuvi GPS S/N: 14H5949311

Orange County Transit Authority 30 day bus pass #104334 belonging to Suspect Aaron Cochran.

Seven (7) computer disks containing Orange County Transit Authority surveillance video.

INVESTIGATOR'S OBSERVATIONS:

(Refer to Exhibit F for crime scene photographs)

Deputy Miller's F250 truck had been moved away from the area of the point of impact prior to the arrival of LASD investigators. The truck sustained minor damage to the left side of the rear bumper.

The Toyota Camry sustained moderate damage to the left rear quarter panel. The right rear axle was broken due to it being pushed into the curb.

Broken red plastic debris from the left rear tail lamp of the Toyota Camry was scattered on the pavement in the area of the point of impact.

Deputy Miller's brown leather holster was laying on the pavement approximately one foot west of the left rear tire of his truck.

A red First Aid kit was laying on the front lawn near the sidewalk of Deputy Miller's home.

WEAPON USED BY DEPUTY PERSONNEL:

Deputy Miller

Weapon Type:	Off-duty revolver, Smith & Wesson, 38 caliber, 2-inch
Rounds Fired:	1
Type of Ammunition Used:	Department Authorized.
Date Employee Last Qualified:	[redacted]

Refer to Exhibit C for Deputy Miller's shooting and employee training records.

WEAPON USED BY SUSPECTS:

Vehicle - Deputy Miller's truck.

PROPERTY DAMAGE:

Moderate vehicle damage to a 2002 Toyota Camry, Gray, Lic# [redacted] registered to [redacted].

Minor vehicle damage to a 2004 Ford F250 pickup, Black, Lic# [redacted] registered to Michael J. Miller or [redacted] (Deputy Miller's [redacted]).

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator: [redacted] # [redacted]

Court: Santa Ana **Case#:** 10SF0650
Charges Filed:

A. Cochran -	10851(a)V.C.	3 years probation, 180 days jail
C. Earnest -	10851(a)V.C.	3 years probation, 106 days jail
S. Earnest -	10851(a)V.C.	3 years probation, 180 days jail

Conviction date: August 30, 2010

LIGHTING AND WEATHER CONDITIONS:

The lighting was dark with streetlights in the area and illumination from the headlights of the truck. The weather was cool and clear.

INVOLVED EMPLOYEE STATEMENTS:

DEPUTY MICHAEL MILLER, Employee# [redacted] was interviewed on June 27, 2010, by Internal Affairs Bureau Sergeant Teri Roberts and Sergeant Frank Quichocho. The interview took place at his home. The following is a summary.

Deputy Miller was awakened when he heard the sound of the diesel engine from his truck (2004 Chevy F250 pickup, black, California license plate number [redacted]) start, which was parked in his driveway. He stepped out into the second story balcony of his bedroom and heard the engine stop. From a distance of approximately fifteen to twenty feet, Deputy Miller saw a male wearing a red shirt, black shorts and a black hat (later identified as Suspect Shawn Earnest described as having a thin build, 5'11", 160-170 pounds, black hair, no facial hair) exit the driver's seat of the truck while a second male (later identified as Suspect Aaron Cochran described as 18-25 years of age, short hair, lighter skin, black T-shirt, blue jeans) jumped into the driver's seat. Deputy Miller saw the silhouette of a third male (later identified as Suspect Cory Earnest) seated in the front passenger seat.

> **IAB Note: As soon as the diesel engine on the truck starts, the headlights automatically turn on.**

Suspect Cochran closed the driver's door and started the engine of the truck. As Suspect Shawn Earnest was walking southbound on the sidewalk, Deputy Miller yelled, "Hey!" Suspect Shawn Earnest turned and looked at Deputy Miller.

Wearing only his boxer shorts, Deputy Miller armed himself with his off-duty Smith & Wesson .38 caliber 2" revolver and ran downstairs. He exited the front door (located on the south side of the house) of his home and confronted the vehicle halfway in the driveway.

> **IAB Note: Refer to Exhibit D for Deputy Miller's sketch of the location. Deputy Miller marked the first "X" where he confronted the truck, halfway in the driveway.**

As the truck was slowly backing out of the driveway, Deputy Miller ran to the driver's door, began banging on the driver's window and said, "Stop, stop. I'm a deputy. I'm police. Stop. Get out of the car. Get out of the car!"

IAB Note: All windows of the truck are tinted with the exception of the windshield.

Deputy Miller heard the engine accelerate. The truck began to travel in reverse at a high rate of speed. Deputy Miller was standing next to the truck when the driver turned the steering wheel. When the back end of the truck veered northbound up the hill, the front end of the truck swung toward Deputy Miller on the driver's side, causing the truck to "push" him. Deputy Miller believed the truck was going to run him over. He removed the leather holster from his revolver and dropped the holster on the ground. From a distance of approximately two arm lengths from the truck, Deputy Miller aimed the weapon at the driver and fired one round from the hip with his right hand, striking the driver's door of the truck. Deputy Miller then stepped back to look for cover.

IAB Note: Refer to Exhibit D for Deputy Miller's sketch of the location. Deputy Miller marked a second "X", in the street, where he fired his weapon. Deputy Miller circled the area where he took cover.

The truck continued in reverse at a high rate of speed and ultimately struck Deputy Miller's [redacted] Toyota Camry that was parked across the street along the east curb line of [redacted]

For a second time, Deputy Miller shouted, "Get out. Get out. I'm a police officer. Get out. Don't move. Get out!" Suspect Cochran and Suspect Cory Earnest did not move for a moment, then jumped out of the truck. Suspect Cory Earnest exited the truck from the passenger side and ran northbound [redacted]. Suspect Cochran exited the driver's door within ten feet of Deputy Miller and fled southbound [redacted] Deputy Miller then ran into the house and yelled for his [redacted] and [redacted] to call 911.

Deputy Miller ran back upstairs to the balcony area of his bedroom and saw the neighbor from across the street walk outside. He told his neighbor it was okay, that he already called the police, and to go back inside. Deputy Miller then spoke to the 911 operator.

IAB Note: Refer to a copy of Deputy Miller's transcribed interview with Sergeants Roberts and Quichocho for further details.

DEPUTY MICHAEL MILLER was interviewed a second time on May 25, 2011, by Internal Affairs Bureau Sergeant Teri Roberts to obtain additional information and clarification on a few issues. Deputy Miller was represented by Green & Shinee, Attorney Helen Schwab. The interview took place at the Internal Affairs Bureau in interview room #B, and was digitally recorded. The following is a summary.

I showed Deputy Miller several crime scene photos to assist him in clarifying some issues. I asked Deputy Miller to identify the location where he saw the suspect with the red shirt (Suspect Shawn Earnest) and the suspect with the black shirt (Suspect Aaron Cochran) when he first made his observation from the balcony.

<u>IAB Note</u>: For the crime scene photographs, refer to Exhibit E. In photograph marked "1". Deputy Miller identified Suspect Shawn Earnest with an "R" and Suspect Aaron Cochran with a "B.

Suspect Shawn Earnest was in the driveway seated in the driver's seat of the truck. The engine was running. Suspect Cochran was standing adjacent to the driver's door. Deputy Miller then heard the engine turn off and saw Suspect Shawn Earnest exit the driver's door and Suspect Cochran jump into the driver's seat. As Suspect Cochran started the engine, Suspect Shawn Earnest began walking southbound on the sidewalk adjacent to the boat.

<u>IAB Note</u>: Refer to photograph marked "2". Deputy Miller drew a line from the driveway to the area alongside the boat. Deputy Miller placed an "R" in the area where he last saw Suspect Shawn Earnest prior to him leaving the balcony to exit his home.

Deputy Miller did not call 911 prior to running out of his home with his weapon. He said he acted on instinct, as he was trained, and wanted to go out and stop the suspects from taking his truck.

As Deputy Miller was running out of his house toward the truck, he did not look to see where Suspect Shawn Earnest had gone.

As the truck was backing out slowly from the driveway, Deputy Miller approached the driver's door in the driveway, second step up from the sidewalk. He shouted, "Police, get out of the car, police", and began pounding on the window. As the truck moved back, Deputy Miller traveled back with the truck and continued to pound on the driver's window. Deputy Miller was unable to see the suspects in the truck due to the tinted windows. He was only able to see each silhouette.

Deputy Miller did not look back to see if Suspect Shawn Earnest had returned from walking away.

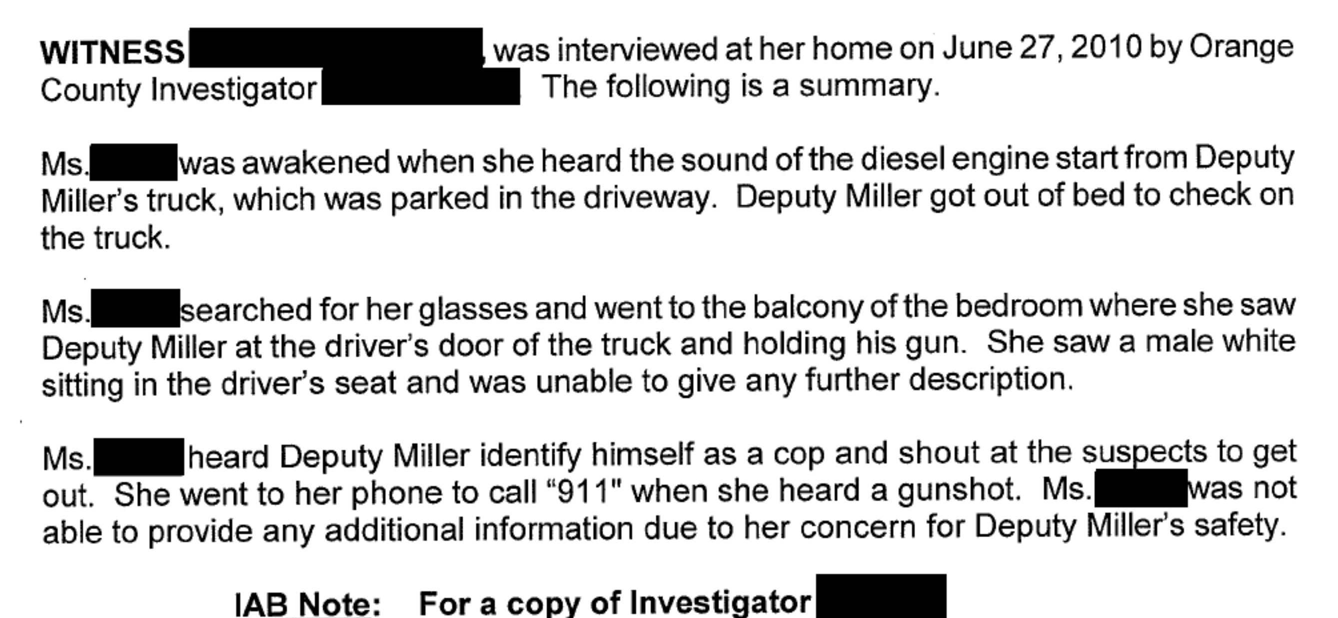
Deputy Miller traveled backwards alongside the driver's door for approximately thirty to forty feet, and within arms reach of the truck. As Suspect Cochran accelerated, the front end of the truck was turning in Deputy Miller's direction. Deputy Miller felt he was going to get run over by the truck. He then held his arm out against the truck. Deputy Miller removed his revolver from the holster and dropped the holster on the ground. From his right hip, Deputy Miller pointed the revolver toward the driver and fired one round with his right hand, striking the driver's door. Deputy Miller then stepped back in the street near the east curb line to gain distance from the truck and pointed his revolver at the driver's door.

Deputy Miller stated he normally does not leave his keys in his unlocked vehicle. While removing grocery bags from the truck that day, he left the keys in the truck.

Deputy Miller was not injured as a result of this incident.

> **<u>IAB Note</u>: Refer to a copy of Deputy Miller's second transcribed interview with Sergeant Roberts for further details.**

<u>NON-DEPARTMENT WITNESS STATEMENTS:</u>



WITNESS [redacted], was interviewed at her home on June 27, 2010 by Orange County Investigator [redacted] The following is a summary.

Ms. [redacted] was awakened when she heard the sound of the diesel engine start from Deputy Miller's truck, which was parked in the driveway. Deputy Miller got out of bed to check on the truck.

Ms. [redacted] searched for her glasses and went to the balcony of the bedroom where she saw Deputy Miller at the driver's door of the truck and holding his gun. She saw a male white sitting in the driver's seat and was unable to give any further description.

Ms. [redacted] heard Deputy Miller identify himself as a cop and shout at the suspects to get out. She went to her phone to call "911" when she heard a gunshot. Ms. [redacted] was not able to provide any additional information due to her concern for Deputy Miller's safety.

> **<u>IAB Note</u>: For a copy of Investigator [redacted] supplemental report containing Witness [redacted] interview, refer to Exhibit A.**

SUSPECT STATEMENTS:

SUSPECT AARON COCHRAN, Booking# 2581663, was interviewed on July 8, 2010 by Orange County Sheriff's Department Investigator [redacted] The interview took place at Aliso Viejo Sheriff's Station. The following is a summary.

Aaron stated he was with Shawn and Cory at their house drinking alcohol throughout the night. They were all intoxicated. Sometime after midnight, they left Shawn and Cory's house to steal from unlocked vehicles. Aaron was to stand by as the "lookout" while they stole from the vehicles.

They found the unlocked truck in Deputy Miller's driveway. Shawn jumped into the driver's seat as Cory jumped in the passenger seat. Cory found the ignition keys and asked Aaron if he wanted to take the truck, but Aaron declined. Aaron jumped onto the running board on the driver's side to look inside the truck. He then left the location and walked southbound [redacted]

Aaron said he heard a gunshot and looked back. The truck was in the middle of the street and an unknown male was beside the truck. He saw Cory run northbound in the opposite direction as Shawn ran southbound in his (Aaron's) direction. Shawn later told Aaron that a male had fired a gun at him and Cory.

> **<u>IAB Note</u>: For a copy of Investigator [redacted] supplemental report containing Suspect Cochran's interview, refer to Exhibit A.**

SUSPECT AARON COCHRAN was interviewed on May 13, 2011 by Los Angeles County Sheriff's Department Internal Affairs Sergeant Teri Roberts. The interview took place at the Orange County Sheriff's Department Men's Central Jail where Aaron was incarcerated for an unrelated charge. The interview was digitally recorded and the following is a summary.

Aaron stated he, Shawn and Cory were shot at when Deputy Miller discovered they were stealing his truck.

Aaron did not wish to disclose who found the keys in the truck and who had started the engine. He indicated Shawn and Cory were inside the vehicle, but he did not wish to disclose where they were seated.

Aaron said he was seated in the passenger seat as the truck began to back up out of the driveway, when he saw Deputy Miller run out of the house and approach the truck on the driver's side. Deputy Miller was within an arm's distance from the truck.

Aaron did not hear Deputy Miller shout at them.

IAB Note: Inconsistent statement - During Investigator [redacted] interview of Suspect Cochran, Cochran stated Suspect C. Earnest was seated in the passenger seat.

Aaron heard what sounded like "tapping" on the driver's window, but later was told that Deputy Miller had fired a gun at them. Aaron said he did not see Deputy Miller pointing a gun at them, but heard possibly three gunshots. The three of them then ran from the location. Aaron ran northbound [redacted].

Aaron denied having any physical contact with Deputy Miller as he fled from the truck. Aaron did not sustain any injuries as a result of the incident.

IAB Note: Refer to a copy of Suspect Cochran's transcribed interview with Sergeant Roberts for further details.

SUSPECT CORY EARNEST, Booking# 2581855, was interviewed on July 9, 2010 by Orange County Sheriff's Department Investigator [redacted]. The interview took place at his home in [redacted]. The following is a summary.

While speaking to Cory, Investigator [redacted] detected a strong odor of alcohol on his breath.

Prior to the thefts, Cory, Aaron and Shawn were at a party near Santa Margarita and Los Alisos and were drinking heavily. After leaving the party at approximately 0100 hours, they were walking to Cory's house when Aaron began pulling on the doors of vehicles. Aaron rummaged through unlocked vehicles and stole property. Cory stated he and Shawn were not involved in the theft from the vehicles.

Aaron opened the door of Deputy Miller's truck, jumped inside and started the engine. Through the closed passenger window, Cory asked Aaron what he was doing. As Aaron was backing the truck out of the driveway, Deputy Miller ran out of his house with a gun, and shouted at them as he fired two rounds into the air.

Cory ran northbound away from the location. Aaron exited the driver's door, pushed Deputy Miller, and fled southbound [redacted].

IAB Note: For a copy of Investigator [redacted] supplemental report containing Suspect Cory Earnest's interview, refer to Exhibit A.

SUSPECT CORY EARNEST was interviewed telephonically on May 20, 2011 by Los Angeles County Sheriff's Department Internal Affairs Sergeant Teri Roberts. The interview was digitally recorded and the following is a summary.

While walking down the street with Shawn and Aaron, Aaron jumped into the driver's seat of a truck and started the engine. Cory does not recall whether the headlights of the truck were on. Cory was standing outside the truck next to the passenger window when he observed a silhouette of an individual (Deputy Miller) run to the driver's window within two or three feet from the truck. Deputy Miller yelled, "You mother fuckers." Cory heard two loud noises as if a window had been shattered and the door was hit. Cory then ran from the scene. Aaron had not backed the truck out of the driveway.

Cory believes Deputy Miller was wearing a shirt and shorts. He did not see if Deputy Miller was holding a hand gun. Cory said did not know that Deputy Miller had fired a weapon until he was told by his public defender when he appeared in court on this case.

Cory stated Deputy Miller did not identify himself as a police officer.

Cory did not sustain any injuries as a result of the incident.

> **IAB Note: Refer to a copy of Suspect Cory Earnest's transcribed interview with Sergeant Roberts for further details.**

SUSPECT SHAWN EARNEST, Booking# 2582447, was interviewed on July 13, 2009 by Orange County Sheriff's Department Investigator [redacted] The interview took place at Shawn's home in [redacted]. The following is a summary.

Shawn said he had nothing to do with the theft incidents. He stated he was drinking with his friend, [redacted], at his house on [redacted] and could provide witnesses.

Investigator [redacted] told Shawn that he had spoken to [redacted] earlier and [redacted] stated he had been drinking with Shawn at Shawn's home that evening. Shawn would not provide any witnesses for that night, nor did he wish to speak with Investigator [redacted] any further.

Shawn was then arrested and booked for Vehicle Theft (10851V.C.) and Vehicle Burglary (459P.C.).

> **IAB Note: For a copy of Investigator [redacted] supplemental report containing Suspect Shawn Earnest's interview, refer to Exhibit A.**

SUSPECT SHAWN EARNEST was interviewed on May 12, 2011 by Los Angeles County Sheriff's Department Internal Affairs Sergeant Teri Roberts. The interview took place at the Orange County Sheriff's Department Men's Central Jail where Shawn was [redacted] The interview was digitally recorded and the following is a summary.

Shawn stated he and his brother Cory, along with their friend Aaron Cochran were drunk and, "were out trying to rob vehicles." He found Deputy Miller's truck unlocked and the ignition keys inside. Shawn (wearing a red shirt) said he started the engine and was unable to locate the brake release to disengage it. Aaron was standing beside Shawn at the driver's door acting as a "lookout" and said he knew where it was. Shawn exited the driver's door to stand as a "lookout" as Aaron jumped into the driver's seat. Cory was seated in the front passenger seat of the truck.

Aaron started the engine. Shawn said he was standing at the far left end of the driveway when Deputy Miller ran out of his home and onto the walkway toward the truck. Shawn was not able to describe what Deputy Miller was wearing due to the darkness.

Deputy Miller pointed his weapon at the driver's window and shouted, "Get the fuck out of my car", and fired the weapon. Shawn said he was approximately twenty feet from Deputy Miller when he fired his weapon. He believed Deputy Miller fired his weapon from the grass area in the front yard, but was not positive. Shawn did not believe Deputy Miller saw him. As soon as Deputy Miller fired his weapon, Shawn said he ran down the street (northbound [redacted]) as Aaron pulled the truck out of the driveway in reverse and collided into a parked car.

Shawn believes Deputy Miller fired his weapon twice and did not know if anyone was hit prior to him running from the scene. He heard Deputy Miller yelling for help as he (Shawn) hid and waited down the street. Shortly thereafter, he saw Aaron running in his direction. Aaron told Shawn that Cory had ran from the scene in the opposite direction.

Shawn stated Deputy Miller did not identify himself as a police officer prior to shooting.

Shawn did not sustain any injuries as a result of the incident.

> <u>IAB Note</u>: **Refer to a copy of Suspect Shawn Earnest's transcribed interview with Sergeant Roberts for further details.**